

**Gaithersburg-Washington Grove Fire Dept., Inc. and Career Firefighters of Gaithersburg-Washington Grove Fire Dept., Inc., affiliated with Local 1664, International Association of Fire Fighters, AFL-CIO-CLC, Petitioner. Case 5-RC-11181**

April 13, 1981

**SUPPLEMENTAL DECISION AND  
ORDER DISMISSING PETITION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held on April 23 and 25, 1980, before Hearing Officer Kathleen Boni. Following the close of the hearing, the Regional Director for Region 5 transferred this case directly to the Board for decision. Thereafter, the Employer and the Petitioner filed briefs in support of their respective positions.

On August 18, 1980, the Board issued an Order<sup>1</sup> directing the Regional Director for Region 5 to conduct a further hearing for the purpose of receiving evidence as to the effect of Montgomery County, Maryland, Bill #15/16-79 (April 30, 1980) upon the issues raised by the petition herein. Such further hearing was held on September 4 and October 15 and 16, 1980, before Hearing Officer Kathleen Boni. Thereafter, the Employer and the Petitioner filed supplemental briefs in support of their respective positions.

The Board has reviewed the Hearing Officer's rulings made at the hearing, and finds that they are free from prejudicial error. They are hereby affirmed.

In the August 18, 1980, Decision and Order in this matter, the Board concluded that a further hearing was necessary because, in the absence of testimony regarding Bill #15/16-79, it could not determine whether the Employer meets the definition of "employer" in Section 2(2) of the Act or whether the Employer has sufficient control over the employment conditions of its employees to

enable it to bargain with a labor organization as their representative.<sup>2</sup> The testimony adduced at the further hearing produced little information as to the ultimate effect of Bill #15/16-79 upon the issues raised by the petition herein. Although the various positions on the governing and advisory bodies created by Bill #15/16-79 have been filled, it is apparent that few, if any, policies, regulations, standards, etc., have been adopted to date.<sup>3</sup> Consequently, the effect of such policies, regulations, standards, etc., cannot be ascertained at the present time.

Under these circumstances, we conclude that the county laws under which the Employer must operate are in such a state of evolution that we currently are unable to determine whether the Employer meets the definition of "employer" in Section 2(2) of the Act or whether the Employer has sufficient control over the employment conditions of its employees to enable it to bargain collectively with a labor organization as their representative. This being so, we further conclude that the issues raised by the petition herein are not ripe for adjudication at this time. Accordingly, we will dismiss the instant petition without prejudice to its being refiled at a later date.

**ORDER**

It is hereby ordered that the petition herein filed by Career Firefighters of Gaithersburg-Washington Grove Fire Dept., Inc., affiliated with Local 1664, International Association of Fire Fighters, AFL-CIO-CLC, be, and it hereby is, dismissed without prejudice.

<sup>2</sup> 251 NLRB 294; see, generally, *National Transportation Service, Inc.*, 240 NLRB 565 (1979).

<sup>3</sup> The testimony did indicate, however, that Montgomery County is in the process of completely rewriting the personnel regulations which are applicable to county employees, and that a variation of those regulations, through a procedure prescribed by Bill #15/16-79, will become applicable to all career firefighters in Montgomery County, including the Employer's employees. There is no evidence, testimonial or otherwise, indicating that Montgomery County is being less than diligent in its efforts to revise its personnel regulations.

<sup>1</sup> 251 NLRB 294.